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**REQUEST
FOR
CONTINUED EXAMINATION (RCE)
TRANSMITTAL**

Subsection (b) of 35 U.S.C. § 132, effective May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995.

See the American Inventors Protection Act of 1999 (AIPA).

Application Number	09/457,228
Filing Date	December 8, 1999
First Named Inventor	Gary K. Michelson, M.D.
Group Art Unit	3738
Examiner Name	B. Snow
Attorney Docket Number	101.0084-00000

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

Note: 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53(d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

1. **Submission required under 37 C.F.R. § 1.114**

- a. ☐ Previously submitted
- i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on **RECEIVED**
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on **SEP 29 2003**
- iii. ☐ Other _____
- b. ☒ Enclosed
- i. ☒ Amendment/Reply with transmittal (in duplicate)
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☒ Information Disclosure Statement (IDS) with Form PTO-1449 and 2 documents
- iv. ☐ Other _____

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2. **Miscellaneous**

- a. ☐ Suspension of action of the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
- b. ☐ Other _____

3. **Fees** The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge any deficiencies of the following fees, or credit any overpayments, to:
- Deposit Account No. 50-1066 09/26/2003 MBIZUNES 00000058 09457228
- i. ☒ RCE fee required under 37 C.F.R. § 1.17(e) 01 EC:1801
- ii. ☒ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17) 02 FC:1253
- iii. ☐ Other _____ 750.00 OP
930.00 OP
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	Amedeo F. Ferraro	Registration No. (Attorney/Agent)	37,129
Signature	<i>Amedeo F. Ferraro</i>	Date	9-23-03

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop: RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on:

Name		Date	
Signature			

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re Application of:)	
)	
Gary K. Michelson)	
)	
Serial No.: 09/457,228)	Group Art Unit: 3738
)	
Filed: December 8, 1999)	Examiner: B. Snow
)	
For: SPINAL IMPLANT SURFACE)	Confirmation No. 7453
CONFIGURATION)	

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

AMENDMENT

In reply to the Office Action dated April 21, 2003, the period for reply having been extended for three (3) months by a request for extension and fee payment filed concurrently herewith, please amend the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 37 of this paper.